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SERIES I No. 18



# OFFICIAL GAZETTE

## GOVERNMENT OF GOA

*Note: There are two Extraordinary and one Supplement issues to the Official Gazette Series I No. 17 dated 27-7-2006 namely:—*

- (1) Extraordinary dated 27-7-2006 from pages 265 to 272 regarding Notification from Department of Social Welfare.
- (2) Supplement dated 31-7-2006 from pages 273 to 278 regarding Notification from Goa Legislature Secretariat.
- (3) Extraordinary (No. 2) dated 31-7-2006 from pages 279 to 284 regarding Notification from Department of Law & Judiciary (Legal Affairs Division).

### GOVERNMENT OF GOA

Goa Legislature Secretariat

LA/A/BILLS/1238/2006

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 25-7-2006 is hereby published for the general information in pursuance of the provisions of Rule - 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

#### The Goa Municipalities (Amendment) Bill, 2006

(Bill No. 15 of 2006)

A

BILL

*further to amend the Goa Municipalities Act, 1968 (Act 7 of 1969).*

BE it enacted by the Legislative Assembly of the State of Goa in the Fifty-seventh year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Municipalities (Amendment) Act, 2006.

(2) Section 2 of this Act shall be deemed to have come into force on the 28th day of April,

2006, while section 3 shall come into force at once.

2. *Amendment of section 6.*— In section 6 of the Goa Municipalities Act, 1968 (Act 7 of 1969) (hereinafter referred to as the “principle Act”), for sub-sections (3) and (4), the following sub-section shall be substituted, namely:—

“(3) Notwithstanding anything contained in any of the provisions of this Act or any other law or Judgement, decree, order of the Court, a Municipal area which is deemed to be a Panchayat in terms of section 2 of the Goa Municipalities (Amendment) Act, 2001 (Goa Act 1 of 2001) shall be a Municipal area from the 28th day of April, 2006, and all actions taken by or against such deemed Panchayat shall be deemed to have been taken by or against the Municipal Council of such Municipal area”.

3. *Amendment of section 9.*— In sub-section (2) of section 9 of the principle Act, in the table below clause (a), in item (ii), for the figures “15,000”, the figures “10,000” shall be substituted.

4. *Repeal and Saving.*— (1) The Goa Municipalities (Amendment) Ordinance, 2006 (Ordinance No. 2 of 2006), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principle Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principle Act as amended by this Act.

#### Statement of Objects and Reasons

Sub-section (3) of section 6 of the Goa Municipalities Act, 1968 (Act 7 of 1969) (hereinafter referred to as the “said Act”), provides that in case where election to a Municipal Council has not been conducted within a period of six months from its declaration as a Municipal area, such Municipal area shall be deemed to be a Panchayat for the purpose of section 3 of

the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994).

The Bill seeks to substitute a new sub-section (3) for the existing sub-sections (3) and (4) of section 6 of the said Act, so as to provide that, notwithstanding anything contained in any of the provisions of the said Act or any other law or Judgment, decree, order of the Court, a Municipal area which is deemed to be a Panchayat in terms of section 2 of the Goa Municipalities (Amendment) Act, 2001 (Goa Act 1 of 2001) shall be a Municipal area from the 28th day of April, 2006, and all actions taken by or against such deemed Panchayat shall be deemed to have been taken by or against the Municipal Council of such Municipal area.

As per existing provision under Section 9, a 'C' Class Municipal Council, with population of upto 10,000, shall have 10 Councillors. A 'B' Class Municipal Council also shall have 10 Councillors upto a population of 15,000. This anomaly is sought to be rectified by amending Section 9.

The Bill also seeks to replace the Goa Municipalities (Amendment) Ordinance, 2006 (Ordinance No. 2 of 2006), promulgated by the Governor of Goa on 28th day of April, 2006.

This Bill seeks to achieve the above objects.

### **Financial Memorandum**

The financial implications due to increase in number of Councillors consequent upon the amendment and increase in number of wards. Each Councillor is paid Honorarium of Rs. 2500/- per month. The additional liability is Rs. 3.60 lakhs/- approximately annually.

### **Memorandum Regarding Delegated Legislation**

No delegated legislation is involved in this Bill.

Panaji-Goa (Joaquim Alemao)  
7th July, 2006 Minister for Urban Development

### **Governor's Recommendation under Article 207 of the Constitution**

In pursuance of Article 207 of the Constitution of India, I, S. C. Jamir, the Governor of Goa, hereby recommend the introduction and consideration of the Goa Municipalities (Amendment) Bill, 2006 by the Legislative Assembly of Goa.

### **ANNEXURE**

#### **Extract of Section 6 & 9 of the Goa Municipalities Act, 1968**

The section 6 of the Goa Municipalities Act, 1968 reads as follows:

*"Alteration of the limits of a Municipal area:— (1)*  
The Government may by notification in the Official Gazette:—

(a) alter the limits of a Municipal area so as to include therein or to exclude therefrom such local area as may be specified in the notification;

(b) amalgamate two or more Municipal areas so as to form one Municipal area;

(c) split up any municipal area into two or more municipal areas;

(d) declare that the whole of any local area comprising a municipal area shall cease to be a municipal area:

Provided that no such notification shall be issued by the Government under any of the clauses of this sub-section without consulting the Municipal Council or Councils and other local authorities concerned.

(2) Prior to the publication of a notification under sub-section (1), the procedure prescribed in sub-section (3), (4) and (5) of section 3 shall mutatis mutandis be followed.

(3) In case where election to a Municipal Council has not been conducted within a period so six months from its declaration as a Municipal area, such Municipal area shall be deemed to be a Panchayat for the purpose of section 3 of the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994).

(4) Notwithstanding anything contained in any of the provisions of this Act or any other law, judgement, decree or order of the Court, the provisions of sub-section (3) shall continue to apply and action taken thereof shall be deemed to have been taken in terms of this Act.

Assembly Hall,  
Porvorim-Goa  
7th July, 2006 (T. N. Dhruva Kumar)  
Secretary to the Legislative  
Assembly of Goa.

The Section 9 of the Goa Municipalities Act, 1968 reads as follows:

**9. Composition of Councils.**— (1) Save as otherwise provided by this Act, every Council shall consist of Councillors elected at Ward elections: Provided that

(1) in every Council, not less than 1/3 seats shall be reserved for women;

(2) in every Council, seat shall also be reserved for Scheduled Castes and the Scheduled Tribes and for Women belonging to Scheduled Caste, as the case may be, the Scheduled Tribes as provided under sub-section (2)".

(2) The Director shall from time to time by an order published in the Official Gazette fix for each municipal area—

(a) The number of elected Councillors in accordance with the following table:

Class of Municipal Area	Number of elected Councillors
(i) 'A' Class	The minimum number of elected Councillors shall be 15, and "for every 3,000 of the population or part thereof" above 50,000 there shall be one additional elected Councillor, so, however, that the total number of elected Councillors shall not exceed 20;
(ii) 'B' Class	The minimum number of elected Councillors shall be 10, and "for every 3,000 of the population or part thereof" above "15,000" there shall be one additional elected Councillor, so, however, that the total number of elected Councillors shall not exceed 15;
(iii) 'C' Class	The number of elected Councillors shall be 10.

"(b) the number of seats, if any, to be reserved for Scheduled Castes or the Scheduled Tribes so that such number shall bear, as nearly as may be, the same proportion to the number of elected Councillors as the population of the Scheduled Castes or of the Scheduled Tribes in the municipal area bears to the total population of that area and not less than one-third of such seats shall be reserved for women and such seats shall be allotted by rotation to different constituencies in a municipal area.

(c) the number of seats for the office of Chairperson in the Council for Scheduled Castes, the Scheduled Tribes and women so that such number will bear as nearly as may be, the same proportion to the number of elected Councillors as the population of the

Scheduled Castes or of the Scheduled Tribes in the municipal area bears to the total population of that area and such seats shall be allotted by rotation to different constituencies in a Council."

(3) The reservation of seats for Scheduled Castes and Scheduled Tribes made by an order under sub-section (2) shall cease to have effect when the reservation of seats for those Castes and Tribes in the House of the People ceases to have effect under Constitution of India:

Provided that nothing in this sub-section shall render any person elected to any such reserved seat ineligible to continue as a Councillor during the term of office for which he was duly elected by reason only of the fact that the reservation of seats has so ceased to have effect.

(4) Every order under sub-section (2) shall take effect for the purposes of the next general election of the Council immediately following after the date of the order.

Assembly Hall,  
Porvorim-Goa.  
7th July, 2006

(T. N. DHRUVA KUMAR)  
Secretary to the Legislative  
Assembly of Goa.

LA/A/BILLS/1239/2006

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 25-7-2006 is hereby published for the general information in pursuance of the provisions of Rule - 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

**The Goa Value Added Tax  
(Second Amendment) Bill, 2006**

(Bill No. 21 of 2006)

A

Bill

*further to amend the Goa Value Added Tax Act, 2005 (Act No. 9 of 2005)*

BE it enacted by the Legislative Assembly of Goa in the Fifty-seventh Year of the Republic of India as follows:—

**1. Short title and commencement.**— (1) This Act may be called the Goa Value Added Tax (Second Amendment) Act, 2006.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

**2. Amendment of section 2.**— In section 2 of the Goa Value Added Tax Act, 2005 (Act 9 of 2005) (hereinafter referred to as the “principal Act”), in clause (i), the expression “/Sales Tax or Value Added Tax” shall be omitted.

**3. Amendment of section 7.**— In section 7 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Any dealer who is eligible for composition of tax under sub-section (1), fails to file returns for all the quarters of the year within the time prescribed, he shall be disqualified for the composition of tax for the next two consecutive years.”.

**4. Amendment of section 9.**— In section 9 of the principal Act, in sub-section (2), after clause (viii), the following clauses shall be inserted, namely:—

“(ix) in respect of purchase of motor vehicle including car, three wheeler and two wheeler under this Act or tax paid under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) on import of such motor vehicle before grant of registration mark under the Motor Vehicles Act, 1988 (Central Act 58 of 1988), when such vehicle is resold as true value vehicle or otherwise by a registered dealer under this Act;

(x) in respect of raw material used in the manufacture of ready mixed concrete;

(xi) in respect of Naphta used as raw material by chemical fertilizer industry.”

**5. Amendment of section 10.**— In section 10 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) After adjustment under sub-section (1), the excess input tax credit of a registered dealer other than those covered under sub-section (3) shall be carried over as an input tax credit to the subsequent period upto the end of the respective financial year and if there is any unadjusted input tax credit thereof, the same shall be refunded in the prescribed

manner within three months, from the date of filing of the last quarterly return of the respective financial year or from the date of filing an application by the dealer claiming such refund, whichever is later”.

**6. Amendment of section 29.**— In section 29 of the principal Act,— (i) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) No assessment under this section for any year shall be made after a period of two years from the end of the year to which the return under section 24 is submitted by a dealer and no assessment under sub-section (9) shall be made after the expiry of five years from the end of the year in respect of which or part of which such assessment is to be made:

Provided that where assessment is made in consequence of or to give effect to, any order of an Appellate Authority or Revisional Authority or of a Court, the said period of two years shall be reckoned from the date of such order:

Provided further that in computing the period laid down in this sub-section, any period during which assessment proceedings are stayed by an order or injunction of any Court or authority such period shall be excluded”;

(ii) after sub-section (8), the following sub-section shall be inserted, namely:—

“(9) Where, the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act, the Commissioner shall proceed to assess, to the best of his judgement, wherever necessary, the amount of tax due from the dealer in respect of such period and all subsequent periods and, in making such assessment, he shall give the dealer reasonable opportunity of being heard; and if he is satisfied that the default is without reasonable cause, direct the dealer to pay by way of penalty, in addition to tax assessed, a sum not exceeding the amount of tax assessed.”.

**7. Amendment of section 33.**— In section 33 of the principal Act, in sub-section (1), for the expression “due from him under this Act and

also excess of input tax credit", the expression "due from him under this Act or unduly paid by him and also excess of input tax credit" shall be substituted.

8. *Amendment of section 39.*—The existing provision of section 39 of the principal Act, shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) Subject to such rules as may be prescribed, any assessment made or order passed under this Act or under the rules made thereunder by any authority appointed under section 13 of this Act, may be reviewed by the respective authority passing it upon an application or of its own motion, as the case may be:

Provided that no order of assessment or any other order shall be reviewed after the expiry of two years from the date of order, by any authority under this sub-section."

9. *Amendment of section 55.*—The existing provision of section 55 of the principal Act, shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) Any registered dealer covered under Schedule 'E' appended to this Act, fails to file a return within the time required under this Act, he shall be liable for penalty of Rs. 1000/- per quarter plus an amount equal to simple interest at the rate of 2% per month on the tax payable for the return period."

10. *Amendment of section 79.*— In section 79 of the principal Act, in sub-section (3), in clause (f), for the expression "Sales Tax Department", the expression "Commercial Tax Department" shall be substituted.

11. *Amendment of section 82.*— In section 82 of the principal Act,—

(i) in sub-section (1),—

- (A) in clause (c), for the expression "sales tax practitioner", the expression "commercial tax practitioner" shall be substituted;
- (B) for the expression "sales tax practitioner is authorized", the expression "commer-

cial tax practitioner or sales tax practitioner is authorized" shall be substituted.

- (ii) in sub-section (2), for the expression "sales tax practitioner" wherever it occurs, the expression "commercial tax practitioner" shall be substituted.

#### STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend sub-section (3) of section 7 of the said Act so as to provide that if any dealer who is eligible for composition of tax, fails to file returns within the time prescribed, he shall be disqualified for the composition of tax for the next two consecutive years.

The Bill seeks to amend sub-section (2) of section 9 of the said Act so as to provide that no input tax credit shall be claimed on raw material used in the manufacture of ready mixed concrete, used (motor vehicles) including two and three wheelers and naphta used as raw material by chemical fertilizer industry, as these items are proposed to be taxed by amending Schedules appended to the said Act, suitably.

The Bill seeks to amend sub-section (2) of section 10 of the Goa Value Added Tax Act, 2005 (Act 9 of 2005) (hereinafter referred to as the "said Act") so as to reduce the period for refund of excess input tax credit from two years to one year.

The Bill seeks to insert sub-section (9) to section 29 of the said Act so as to provide powers to the Commissioner to assess the unregistered dealers.

The Bill seeks to amend section 33 of the said Act so as to provide for refund of tax unduly paid.

The Bill seeks to amend section 39 of the said Act so as to allow the tax authorities to review their own orders or assessment.

The Bill seeks to insert sub-section (2) to section 55 of the said Act so as to specify penalty for not filing return within time by any registered dealer covered under Schedule 'E' to the said Act.

The Bill seeks to amend section 79 and 82 of the said Act in view of change in the name of "Sales Tax Department" to that of "Commercial Tax Department".

This Bill seeks to achieve the above objects.

## FINANCIAL MEMORANDUM

No financial implications are involved in this Bill since no additional expenditure will be incurred on account of the proposed amendment.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 1 (2) of the Bill empowers the Government to appoint a date for bringing into force the Act, by Notification in the Official Gazette.

Clause 3 of the Bill empowers the Government to make rules specifying time for filing returns.

Clause 8 of the Bill empowers the Government to frame rules subject to which any authority may review its own assessment or order.

These delegations are of normal character.

Assembly Hall,  
Porvorim, Goa  
19th July, 2006

PRATAPSINGH RANE  
Chief Minister

T. N. Dhruv Kumar  
Secretary (Legislature)

## Governor's Recommendation under Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, S. C. Jamir, the Governor of Goa, hereby recommends to the Legislative Assembly of Goa, the introduction and consideration of the Goa Value Added Tax (Second Amendment) Bill, 2006.

## ANNEXURE

### Extract of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005)

2. *Definition.*— In this Act, unless the context otherwise requires,—

(a) “agriculture” with all its grammatical variations and cognate expressions, includes horticulture, the raising of crops, grass or garden produce, and also grazing; but does not include dairy farming, poultry farming, stock breeding, the mere cutting of wood or grass, gathering of fruit, raising of man-made forests or rearing of seedlings or plants;

*Explanation.*— For the purposes of this clause and clause (d), the expression “forest” means the forest to which the Indian Forest Act, 1927 (Central Act 16 of 1927), in its application to the State of Goa, applies;

(b) “agriculturist” means a person who cultivates land personally, for the purpose of agriculture;

(c) “appointed day” means the day on which this Act shall come into force;

(d) “business” includes,—

(i) any trade, commerce or manufacture;

(ii) any adventure or concern in the nature of trade, commerce or manufacture;

(iii) any transaction in connection with, or incidental to or ancillary to trade, commerce, manufacture, adventure or concern;

(iv) any transaction in connection with, or incidental to or ancillary to the commencement or closure of such business;

(v) any occasional transaction in the nature of trade, commerce, manufacture, adventure or concern whether or not there is volume, frequency, continuity or regularity of such transaction,

whether or not trade, commerce, manufacture, adventure, concern or transaction is effected with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure, concern or transaction.

*Explanation.*— For the purpose of this clause,

(i) the activity of raising of man-made forest or rearing of seedlings or plants shall be deemed to be business.

(ii) any transaction of sale of capital goods pertaining to such trade, commerce, manufacture, adventure, concern or transaction shall be deemed to be a transaction comprised in business.

(iii) sales of any goods, the proceeds of which are credited to the business shall be deemed to be transactions comprised in business;

(e) “business premises” means any place where a dealer or a transporter sells, transports, books or delivers goods and includes any place where he stores, processes, produces or manufactures goods or keeps books of accounts;

(f) “capital goods” means plant and machinery (including spares and components) and equipment

used in or in relation to manufacture or processing of goods for sale or any other goods which is notified by the Government and used in furtherance of any business excluding such civil structures as may be prescribed;

(g) "casual trader" means a dealer who, whether as principal, agent or in any other capacity, has occasional or seasonal transaction involving the selling, supplying or distribution of goods or conducting any exhibition-cum-sale in Goa whether for cash or for deferred payment, commission, remuneration or other valuable consideration;

(h) "Company" means a company as defined in section 3 of the Companies Act, 1956 (Central Act 1 of 1956) and includes a body corporate or corporation within the meaning of clause (7) of section (2) or Foreign Company referred to in section 591 of that Act;

(i) "Commissioner" means the person appointed to be the Commissioner of Commercial Taxes/Sales Tax or Value Added Tax for the purposes of this Act;

(j) "to cultivate personally" means to carry on any agricultural operation on one's own account,—

(i) by one's own labour, or

(ii) by the labour of one's family, or

(iii) by servants on wages payable in cash or kind (but not in crop share), or by hired labour under one's personal supervision or the personal supervision of any member of one's family;

*Explanation I*—A widow or a minor, or a person who is subject to any physical or mental disability or is a serving member of the armed forces of the Union, shall be deemed to cultivate land personally if it is cultivated by her or his servants or by hired labour.

*Explanation II*—In the case of a Hindu undivided family, land shall be deemed to be cultivated personally, if it is cultivated by any member of such family.

(k) "dealer" means any person who carries on the business of buying, selling, supplying or distributing goods, executing works contract, delivering any goods on hire purchase or any system of payment by instalments, transferring the right to use any goods or supplying by way of or as part of any service, any goods directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration and includes;

(a) a casual trader;

(b) a commission agent, a broker or a del-credere agent or an auctioneer or any other mercantile agent, by whatever name called;

(c) a non-resident dealer or an agent of a non-resident dealer, or a local branch of a firm or company or association or body of persons whether incorporated or not, situated outside the State;

(d) a person who, whether in the course of business or not,—

(i) sells goods produced by him by manufacture, agriculture, horticulture or otherwise; or

(ii) transfers any goods, including controlled goods whether in pursuance of a contract or not, for cash or for deferred payment or for other valuable consideration;

(iii) supplies, by way of or as part of any service or in any other manner whatsoever, goods, being food or any other articles for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;

*Explanation—*

(a) an agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally shall not be deemed to be a dealer within the meaning of this clause;

(b) Government or departments of Union Governments or Other State Governments and Union Territories which whether or not in the course of business, sells, supplies or distributes, goods directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration, shall, in relation to any sale, supply or distribution of surplus, unserviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purpose of this Act;

(c) each of the following persons and bodies who dispose of any goods including goods as unclaimed or confiscated or as unserviceable or as scrap, surplus, old, obsolete or discarded material or waste products whether by auction or otherwise, directly or through an agent for cash or for deferred payment, or for any other valuable consideration, shall notwithstanding anything contained in clause (d) or any other provision of this Act, be deemed to be a dealer, to the extent of such disposals, namely:—

(i) Port Trust;

(ii) Municipal Corporation/Council, and other Local authorities;

(iii) Railway Administration as defined under the Railway Act, 1989 (Central Act 24 of 1989);

(iv) Shipping Transport and Construction Companies;

(v) Air Transport Companies and Airlines;

(vi) Transporters, holding permit for transport vehicles granted under the Motor Vehicles Act, 1988 (Central Act 59 of 1988) which are used or adopted to be used for hire;

(vii) Customs and Central Excise Department of Government of India administering the Customs Act, 1962 (Central Act 52 of 1962) and the Central Excise Tariff Act, 1985 (Central Act 5 of 1986);

(viii) Insurance and Financial Corporations or companies and Banks included in the Second Schedule to the Reserve Bank of India Act, 1934 (Act 2 of 1934);

(ix) Advertising agencies;

(x) Any other corporation, company, body or authority owned or set up by, or subject to administrative control of the Government;

(xi) Income Tax Department of Government of India administering the Income Tax Act, 1961 (Central Act 43 of 1961);

(xii) Any other body as may be notified by the Government from time to time.

(l) "declared goods" means declared goods as defined in the Central Sales Tax Act, 1956 (Central Act 74 of 1956);

(m) "director", in relation to a company, include any person occupying the position of director by whatever name called;

(n) "document" includes written or printed records of any sort, title deeds and data stored electronically in whatever form;

(o) "earlier law" means the Goa Sales Tax Act, 1964 (Act 4 of 1964) as amended from time to time, and includes enactments which have validated anything done or omitted to be done under any of the above mentioned laws;

(p) "goods" means all kinds of movable property (other than newspapers) and includes livestock, all materials, commodities, grass or things attached to or forming part of the earth which are agreed to be severed before sale or under a contract of sale, and property in goods (whether as goods or in some other form) involved in the execution of works contract, lease or hire-purchase or those to be used in the fitting out, improvement or repair of movable property but does not include actionable claims, stocks, shares and securities;

(q) "importer" means a person who brings any goods into the State or to whom any goods are despatched from any place outside the State;

(r) "Input-tax" means tax charged under this Act by a registered dealer to another registered dealer on purchases of goods in the course of business;

(s) "manufacture" includes any activity that brings out a change in an article or articles as a result of some process, treatment, labour and results in transformation into a new and different article so understood in commercial parlance having a distinct name, character, use and includes extracting any goods but does not include such activity of manufacture as may be notified;

(t) "non-resident dealer" means a dealer who has no place of business in the State of Goa but who sells or delivers goods in the State of Goa for sale therein;

(u) "notification" means any notification issued under the Act;

(v) "Output tax" in relation to any registered dealer, means the tax charged in respect of sale or supply of goods made by that dealer;

(w) "person" includes an individual, any Government, any company or society or club or association or body of individuals whether incorporated or not, and also a Hindu undivided family, a firm and a local authority and every artificial juridical person not falling within any of the preceding descriptions;

(x) "prescribed" means prescribed by the rules made under this Act;

(y) "raw materials" means goods used as ingredients in the manufacture of other goods and includes processing materials, consumable stores and material used in the packing of the goods so manufactured;

(z) "registered dealer" means a dealer registered under this Act;

(aa) "resale" means a sale of purchased goods—

(i) in the same form in which they were purchased; or

(ii) without doing anything to them, which amounts to, or results in, a manufacture, and the word "resell" shall be construed accordingly;

(ab) "rules" means rules made under this Act;

(ac) "sale" with all its grammatical variations and cognate expressions means every transfer of the

property in goods (other than by way of a mortgage, hypothecation, charge or pledge) by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration, and includes—

(a) transfer, otherwise than in pursuance of a contract, of property, in goods for cash, deferred payment or other valuable consideration;

(b) transfer of property in goods (whether as goods or in some other form) involved in execution of a works contract;

(c) delivery of any goods on hire purchase or any other system of payment by instalments;

(d) transfer of the right to use any goods for any purpose (whether or not for a specified period), for cash, deferred payment or any other valuable consideration;

(e) a supply, by way of or as part of any service or in any other manner whatsoever, of goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration;

*Explanation*— A sale shall be deemed to take place in Goa if the goods are within Goa,—

(i) in the case of specific or ascertained goods, at the time the contract of sale made; and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller, whether the assent of the buyer to such appropriation is prior or subsequent to the appropriation:

Provided that where there is a single contract of sale in respect of goods situated in Goa as well as in places outside Goa, provisions of this Explanation shall apply as if there were a separate contract of sale in respect of the goods situated in Goa.

(ad) “sale price” means the amount of valuable consideration received or receivable by a dealer for the sale of any goods less any sum allowed as cash discount, according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof, excise duty, special excise duty or any other duty or taxes except the tax imposed under this Act;

(ae) “Schedule” means the Schedule appended to this Act;

(af) “State” means the State of Goa;

(ag) “Government” means the Government of Goa;

(ah) “tax” means a tax, payable under this Act;

(ai) “taxable goods” means goods other than those specified in Schedule D;

(aj) “tax period” means such period as may be prescribed as tax period;

(ak) “Tribunal” means the Tribunal constituted under section 14 of this Act;

(al) “taxable turnover” means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed, but shall not include the turnover of sale in the course of interstate trade or commerce or in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India and the value of goods transferred or dispatched outside the State otherwise than by way of sale;

(am) “turnover” means the aggregate amount of sale price for which goods are sold or supplied or distributed by a dealer, either directly or through another, whether on own account or on account of others, whether for cash or for deferred payment, or other valuable consideration;

(an) “taxable sale” means sale which is taxable under the provisions of this Act;

(ao) “taxable person” means every person who is registered or is liable to be registered and liable to pay tax under this Act;

(ap) “vehicle” includes every wheeled conveyance used for the carriage of goods solely or in addition to passengers;

(aq) “Works contract” shall include any agreement for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacturing, processing, fabrication, erection, installation, fitting out improvement, modification, repair or commissioning of any movable or immovable property;

(ar) “year” means, the financial year;

(as) “Quarter” means the period of three months ending on the 30th June, 30th September, 31st December or 31st March.

7. *Composition of Tax*.— (1) Subject to such conditions and in such circumstances as may be prescribed, if any registered dealer, of the class specified in Schedule E, whose total turnover in the

previous year does not exceed the limit specified in the said Schedule and who is liable to pay tax under section 3, so elects, the Commissioner may accept towards composition of tax, in lieu of the net amount of tax payable by him under this Act, during the year, an amount at the rate shown against respective class of dealers in the said Schedule calculated on total turnover, either in full or in instalments, as may be prescribed.

(2) Any dealer eligible for composition of tax under sub-section (1) shall not:—

(a) be permitted to claim any input tax credit on purchases and on stock held on the appointed day or on the day from which he is held liable to pay tax under this Act or on the day on which his Registration Certificate is made valid, as the case may be;

(b) charge any tax under this Act in his sales bill or sales invoice in respect of sales made by him;

(c) issue tax invoice to any dealer who has purchased the goods from him.

*N. B.*— Total turnover for the purposes of this section will include aggregate sales of taxable and non-taxable goods.

9. *Input Tax Credit.*— (1) Subject to such conditions and restrictions as may be prescribed Input Tax Credit either partially or wholly shall be allowed for the tax paid during the tax period in respect of goods including capital goods purchased and/or taken on hire or leased to him within Goa, other than those specified in Schedule 'G' and/or such other goods as may be notified from time to time by the Government, provided, the goods purchased are for resale in Goa or for sale in course of Inter State Trade or in course of export outside the territory of India or used by him as raw materials/capital goods in the manufacture or processing of taxable goods in Goa or for sale by transfer of right to use.

(2) No input tax credit under sub-section (1) shall be claimed or be allowed to a registered dealer:—

(i) in respect of goods purchased on payment of tax if such goods are not sold because of theft or destruction for any reason;

(ii) in respect of stock of goods remaining unsold at the time of closure of business;

(iii) in respect of any taxable goods under the Act purchased by him from another registered dealer for resale but given away by way of free samples or gifts;

(iv) in respect of capital goods, covered under Schedule 'B' of the Act, if said goods are utilized for

the purposes other than those covered in the prescribed declaration;

(v) in respect of goods purchased from a dealer who has opted for composition of tax under sub-section (1) of section 7;

(vi) in respect of capital goods:—

(a) purchased or paid prior to appointed day;

(b) capital expenditure incurred prior to the date of registration under this Act;

(c) capital goods not connected with the business of the dealer;

(d) capital goods used in the manufacture of goods or providing services which are not liable to tax under this Act;

(e) capital goods used in generation of energy/power including captive power;

(f) motor cars, its accessories and spare parts.

(3) If goods purchased are intended for use specified under sub-section (1) and are subsequently used fully or partly, for purposes other than those specified under the said sub-section, or loss of goods arising out of theft or destruction for any reason or the stock of goods remaining unsold at the time of closure of business, the input tax credit availed at the time of such purchase shall be reduced from the tax credit for the period during which the said utilization has taken place provided that if part of the goods purchased are utilized otherwise, the amount of reverse tax credit shall be proportionately calculated.

(4) Input tax credit shall be allowed to the registered dealer, subject to restrictions of sub-section (2), in respect of tax charged to him by a registered seller on taxable sales of goods made to him for the purpose of the business within three months prior to the date of his registration provided that no input tax credit shall be allowed in respect of goods which have been sold or otherwise disposed of prior to the date of registration.

(5) (a) where a registered dealer has availed of the input credit on any goods and the same goods are not used in the course of his business, input tax credit so availed becomes repayable in the tax period following the date on which these goods were put to such other use;

(b) where such goods were wholly or mainly used or are intended for use in sale of taxable goods prior to change of use, tax shall be calculated on the prevailing market value of such goods at the time of change of use.

(6) The registered dealer shall be liable for input tax credit in respect of Entry Tax paid by him under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) on goods brought by him for use or consumption except those covered under Schedule 'G' of the Act.

(7) Balance unclaimed input tax credit of capital goods shall not be allowed in case of closure of business.

(8) The registered dealer shall be liable for input tax credit on stock held on the appointed day, towards the tax paid under the earlier law subject to such conditions as may be prescribed. The period and the date from which such input tax credit is to be apportioned shall be as notified.

(9) The deduction of input tax credit on capital goods under this section shall be allowed in two equal annual instalments after the close of the respective year as under:

(i) in case of existing units, upon installation of such capital goods, and

(ii) in case of new units, upon commencement of commercial production.

10. *Input Tax Credit Exceeding Tax Liability.*— (1) Subject to the provisions of sub-section (2), if the input tax credit of a registered dealer, determined under section 9 of this Act for a period exceeds the tax liability for that period, the excess credit shall be set off against any outstanding tax, penalty or interest under this Act or earlier law.

(2) After adjustment under sub-section (1), the excess input tax credit of a registered dealer other than those covered under sub-section (3) shall be carried over as an input tax credit to the subsequent period upto the end of next financial year and if there is any unadjusted input tax credit at the end of the second year,

the same shall be refunded in the prescribed manner within three months from the date of filing of application claiming the refund.

(3) In case of exporter selling goods outside the territory of India, the excess input tax credit, if any, admissible as per provision of this Act, proportionate to the goods exported and carried over at the end of any quarter shall be refunded in the prescribed manner within 3 months from the date of filing of application claiming the refund.

(4) Notwithstanding anything contained in sub-section (2), the Government may allow, carry forward of excess input tax credit, if any, to such shorter period and grant refund of unadjusted portion thereof in respect of such goods to such registered dealer on such conditions and at such proportion as

may be specified by the Notification in the Official Gazette.

29. *Assessment.*— (1) The returns submitted by the dealer shall be accepted as self-assessed:

Provided the Commissioner, as per the procedure prescribed, shall select upto twenty percent of the total number of such dealers or such percentage as may be notified by Government from time to time for detailed assessment:

Provided further when any dealer applies for cancellation of his registration certificate on the ground of closure or stoppage of his business, his last assessment shall be finalized on the basis of books of accounts and other records maintained by him after giving him an opportunity of being heard.

(2) Where—

(a) a person fails to file a return as required by section 24; or

(b) the Commissioner has reason to believe that the returns filed by a person are not correct and complete; or

(c) the Commissioner has reasonable grounds to believe that a person will become liable to pay tax under this Act but is unlikely to pay the amount due,

the Commissioner may make an assessment of the amount of tax payable by the person to the best of his judgement after giving him an opportunity of being heard.

(3) No assessment under this section for any year shall be made after a period of three years from the end of the year to which the return under section 24 is submitted by a dealer.

(4) The Commissioner shall make an assessment of the amount that in his opinion, is the amount of tax payable under this Act, after making necessary enquiries and upon issue of notice on proposed assessment.

(5) The Commissioner shall serve a notice of the proposed assessment in the prescribed manner on the person to be assessed, which shall state—

(a) either the tax payable or the net tax payable in the case of registered dealer and any refund that may be eligible to be claimed;

(b) the time, place, and manner of objecting to the proposed assessment; and

(c) reasons for the assessment to be made.

(6) The Commissioner shall serve a notice on completion of assessment under this section and the

dealer shall pay the balance of tax in accordance with the terms of that notice.

(7) An amended assessment shall be treated in all respects as an assessment under this section.

(8) No assessment or other proceedings purporting to be made, issued or executed under this Act, shall be—

(a) quashed or deemed to be void or voidable for want of form; or

(b) affected by reason of mistake, defect or omission therein, if it is in substance and effect, in conformity with this Act or the rules made thereunder and the person assessed, or intended to be assessed or affected by the document is designated in it according to common understanding.

**33. Refund and Payment of Interest on Amount Refundable.**— (1) Subject to other provisions of this Act and the Rules made thereunder, the Commissioner shall in the manner and within the time as may be prescribed, refund to a dealer any amount of tax, penalty or interest paid by such dealer in excess of the amount due from him under this Act and also excess of input tax credit over output tax payable under this Act. The amount of such refund shall be credited to the declared Bank account of the dealer.

(2) When any amount refundable to any dealer or person under an order made under any provisions of this Act, including refund admissible to an exporter under sub-section (3) of section 10, is not refunded within ninety days—

(a) of the date of such order is made by any authority; or

(b) the date of receipt of the order by the authority, if such order is made by any other authority; or

(c) of the date of receipt of application for refund under sub-section (3) of section 10, the authority shall pay such person simple interest at the rate of eight percent per annum on the said amount from the day immediately following the day of expiry of the said ninety days to the day of refund:

Provided that the interest calculable shall be on the balance of the amount remaining after adjusting out of the refundable amount any tax, penalty or other amount due under this Act, for any year by the person on the date from which such interest is calculable.

**39. Revision/Review by Commissioner.**— The Commissioner may, on his own motion, call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by any authority other than the Tribunal or High Court

is erroneous, in so far as, it is prejudicial to the interest of the revenue, after giving the assessee an opportunity of being heard pass such order as he deems fit:

Provided that the Commissioner shall not pass any order under this section after the expiry of three years from the date of such order.

**55. Penalty for Failure to File Return.**— A person who fails to file a return within the time required under this Act is liable for penalty of Rs. 500/- plus an amount equal to simple interest @ 15% per annum or such higher/lower rate as the Government may notify from time to time on the tax payable for the return period.

**79. Disclosure of Information by a Public Servant.**— (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceeding before a Criminal Court), or in any record of any assessment proceeding, or in any proceeding relating to the recovery of a demand, shall, save as provided in sub-section (3), be treated as confidential; and notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act 1 of 1872), no court shall save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

(2) If, save as provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall, on conviction, be punished with imprisonment, which may extend to six months or with fine or with both:

Provided that no prosecution shall be instituted under this section except with the previous sanction of the Government.

(3) Nothing contained in this section shall apply to the disclosure of,—

(a) any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code, 1860 (Central Act 45 of 1860) or the Prevention of Corruption Act, 1988 (Central Act 49 of 1988), or this Act, or any other law for the time being in force; or

(b) any such particulars to the Government or to any person acting in the execution of this Act or to any person for the purposes of this Act; or

(c) any such particulars when such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; or

(d) any such particulars to a Civil Court in any suit, to which the Government is a party, which relates to any matter arising out of any proceeding under this Act; or

(e) any such particulars to any officer appointed to audit receipts or refunds of the tax imposed by this Act; or

(f) any such particulars where such particulars are relevant to any inquiry into the conduct of an official of the Sales Tax Department or to any person or persons appointed as Commissioner under the Public Servants (Inquiries) Act, 1850 (Central Act 37 of 1850), or to any officer otherwise appointed to hold such inquiry or to a Public Service Commission established under the Constitution, when exercising its functions in relation to any matter arising out of such inquiry; or

(g) such facts to an officer of the Central Government or any State Government or Union Territory as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or

(h) any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 (Central Act 2 of 1899), to impound an insufficiently stamped document; or

(i) any such particulars where such particulars are relevant to any inquiry into a charge of misconduct in connection with sales tax proceedings against a legal practitioner, sales tax practitioner or Chartered Accountant, Cost Accountant, to the authority, if any, empowered to take disciplinary action against members practising the profession of a legal practitioner, sales tax practitioner or Chartered Accountant, Cost Accountant, as the case may be; or

(j) any such particulars to the Director, Bureau of Economics and Statistics or any officer serving under him or to any person or persons authorized under sub-section (2) of section 78 as may be necessary for enabling the Director or such person or persons to carry on their official duties.

(k) any such particulars to an officer of the Central Government or any State Government or Union Territory as may be necessary for the administration of any law in force in any part or the whole of India.

82. *Appearance before any authority in proceedings.*— (1) Any person, who is entitled or required to attend before any authority including the Tribunal in connection with any proceeding under this Act, may be represented—

(a) by a relative or a person regularly employed by him; or

(b) by a legal practitioner, Chartered Accountant or Cost Accountant or Company Secretary who is not disqualified by or under sub-section (2); or

(c) by a sales tax practitioner who possesses the prescribed qualifications and on payment of prescribed fees, and is entered in the list which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2); or

(d) any person who, immediately before the commencement of this Act was a sales tax practitioner under any earlier law, only if such relative, person employed, legal practitioner, Chartered Accountant, Cost Accountant, Company Secretary or sales tax practitioner is authorized by such person in the prescribed form, and such authorization may include the authority to act on behalf of such person in such proceedings.

(2) The Commissioner may, by order in writing and for reasons to be recorded therein, disqualify for such period as is stated in the order from attending before any such authority, any legal practitioner, Chartered Accountant, Cost Accountant, Company Secretary or sales tax practitioner—

(i) who has been removed or dismissed from Government service; or

(ii) who being a sales tax practitioner, a legal practitioner or a Chartered Accountant, Cost Accountant, Company Secretary is found guilty of misconduct in connection with any proceedings under this Act by the Commissioner or by an authority, if any, empowered to take disciplinary action against the member of the profession to which he belongs.

(3) No order of disqualification shall be made in respect of any particular person unless he is given a reasonable opportunity of being heard.

(4) Any person against whom any order of disqualification is made under this section, may, within one month of the date of communication of such order appeal to the Tribunal to have the order cancelled or modified.

(5) The order of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred until the appeal is decided.

(6) The Commissioner may, at any time, suo motu or on an application made to him in this behalf, revoke or modify any order made against a person under sub-section (2) and thereupon such person shall cease to be disqualified subject to such conditions or restrictions that may be contained in such order.

**Extract of the Goa Value Added Tax Act,  
(First Amendment) 2005 (Goa Act 15 of 2005)**

3. *Amendment of section 7.*— In section 7 of the principal Act,—

(i) in sub-section (1),—

(a) after the words “to pay tax under” and before the word and figure “section 3”, the words and figures “sub-sections (1), (2) and (3) of” shall be inserted;

(b) the following proviso shall be inserted, namely:—

“Provided that any dealer of the class specified in Schedule ‘E’ who is liable to pay tax under sub-sections (2) and (3) of section 3, may, at any time during the year, by making self declaration that his turnover of sales during the said year will not exceed the limit specified in the said Schedule ‘E’, apply for composition of tax under this section”;

(ii) after sub-section (1), the following new sub-section shall be inserted, namely:—

“(1A) In the event of transfer of business under any of the circumstances as provided under section 19, the total turnover for the purposes of sub-section (1) shall be the aggregate of the turnover of the transferor as well as the transferee during the year and the prescribed conditions, if any, shall be applicable with reference to such aggregate of the turnover”.

4. *Amendment of section 9.*— In section 9 of the principal Act,—

(a) in sub-section (2),—

(i) in clause (iv), for the words “in respect of capital goods”, the expression “in respect of capital goods industrial inputs and packing materials” shall be substituted;

(ii) after clause (vi), the following clauses shall be inserted, namely:—

“(vii) in respect of taxable goods sold within the State or in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), exempted from payment of tax under any specific notification issued under this Act or under the said Central Sales Tax Act, 1956;

(viii) in respect of goods used in the manufacture or processing of finished goods dispatched other than by way of sales outside the State”;

(b) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) A registered dealer shall be eligible for input tax credit in respect of entry tax paid by him under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) on goods other than those covered by Schedule ‘G’ and capital goods, brought by him in the local area for use or consumption in the manufacture or processing of goods within the State:

Provided that in respect of finished products dispatched by way other than sales, the input tax credit on goods other than those covered by Schedule ‘G’ and capital goods shall be to the extent it exceeds 4%.

5. *Amendment of section 10.*— In section 10 of the principal Act, in sub-section (1), after the expression “penalty or interest under this Act or earlier law”, the expression “or under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956)” shall be added.

LA/A/BILLS/1240/2006

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 25-7-2006 is hereby published for the general information in pursuance of the provisions of Rule - 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

**The Goa Tax on Luxuries (Amendment)  
Bill, 2006**

(Bill No. 22 of 2006)

A

Bill

*further to amend the Goa Tax on Luxuries Act, 1988 (Act 17 of 1988).*

Be it enacted by the Legislative Assembly of Goa in the Fifty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Tax on Luxuries (Amendment) Act, 2006.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.*— In section 2 of the Goa Tax on Luxuries Act, 1988 (Act 17 of 1988) (hereinafter referred to as the “principal Act”),—

(i) in clause (a), for the words “open space where tents” the words “open space with or without tents” shall be substituted;

(ii) in clause (b), sub-clause (b) shall be omitted and sub-clause (c) shall be re-numbered as sub-clause (b) thereof;

(iii) in clause (ee), the words “commodities or” shall be omitted;

(iv) in clause (f), for the expression “but does not include the supply of food and drinks”, the expression “and all services other than casinos, water sports, boat/river cruises and supply of food and drinks” shall be substituted;

(v) in clause (h) and in any other provisions of the principal Act, except in section 5, for the words “hotelier or proprietor or stockist”, wherever they occur, the word “hotelier” shall be substituted;

(vi) in clause (j), the words “as the case may be” and “and value of stock of other luxuries provided”, wherever they occur, shall be omitted;

(vii) clauses (mm) and (mmm) shall be omitted;

(viii) in clause (n), the expression “and includes surcharge if any, leviable” shall be omitted;

(ix) clauses (pp) and (ppp) shall be omitted.

3. *Amendment of section 5.*— In section 5 of the principal Act,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) There shall be levied a tax on the turnover of receipts at the rates provided in Schedule I hereto.”;

(ii) in sub-section (5), for the expression “sales tax under the Goa Sales Tax Act, 1964 (Act 4 of 1964)”, the expression “tax under the Goa Value Added Tax Act, 2005 (Act 9 of 2005)” shall be substituted;

(iii) after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) (i) The Government may, by notification in the Official Gazette,—

(a) reduce any rate of tax;

(b) enhance any rate of tax; and may by like notification, add to, or omit from, or otherwise amend any entry, of the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

(ii) Any notification issued under clause (i) shall take effect prospectively, either from the date of publication thereof in the Official Gazette or from such later date as may be mentioned therein.

(iii) Every notification made under clause (i) shall be laid as soon as may be after it is made on the table of Legislative Assembly while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the notification or the Legislative Assembly agrees that the notification should not be made and notify such decision in the Official Gazette, the notification shall from the date of publication of such decision have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that notification.”.

4. *Omission of section 5A.*—Section 5A of the principal Act shall be omitted.

5. *Amendment of section 5B.*— In section 5B of the principal Act, for the expression “12 percent on the turnover of receipts of the proprietor or rupees two hundred and fifty per day, whichever is higher”, the expression “10 percent on the turnover of receipts of the proprietor” shall be substituted.

6. *Omission of section 5C.*— Section 5C of the principal Act shall be omitted.

7. *Amendment of section 7.*— In section 7 of the principal Act, the words “or business” shall be omitted.

8. *Amendment of section 9.*— In section 9 of the principal Act, in sub-section (1), the expression "or under section 5A" shall be omitted.

9. *Amendment of section 9A.*— In section 9A of the principal Act, after the words "every year" and before the words "on payment of charges", the expression "in the month of September/October" shall be inserted.

10. *Amendment of section 22.*— In section 22 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Commissioner shall, in the prescribed manner, refund to a person the amount of tax, penalty and interest paid by such person in excess of the amount due from him under the Act or unduly paid by him. The refund may be either by cash payment or at the option of the person, by deduction of such excess from the amount of tax, penalty and interest due in respect of any other period:

Provided that the Commissioner shall first apply such excess towards the recovery of any amount due in respect of which a notice under sub-section (6) of section 13 has been issued, and shall then refund the balance, if any.".

11. *Substitution of Schedule.*— For Schedule appended to the principal Act, the following Schedule shall be substituted, namely:—

#### "SCHEDULE I

[See sub-section (2) of section 5]

Serial Number	Turnover of Receipts	Rate of Tax
(1)	(2)	(3)
(a) Where the charge for Luxury provided in a hotel is not exceeding Rs. 200/- per day.		Nil
(b) Where the charge for Luxury provided in a hotel is exceeding 200 rupees but does not exceed Rs. 1,500/- per day.	5%	
(c) Where the charge for Luxury provided in a hotel is exceeding Rs. 1,500/- but does not exceed Rs. 3,000/- per day.	8%	
(d) Where the charge for Luxury provided in a hotel is exceeding Rs. 3,000/- per day.	10%	

Note:— Where the luxuries provided in a hotel are under Time Share Agreement or under Package Deal Agreement or under any such system and wherein the facility of availing residential accommodation during the given period in a year is allowed upon a lump sum payment, then tax shall be paid at the rate provided for at clause (b) above i.e. @ 5%, with a deemed room receipt of Rs. 1,000/- per day per room.".

12. *Substitution of Schedule II.*— For Schedule II appended to the principal Act, the following Schedule shall be substituted, namely:—

#### "SCHEDULE II

[See sections 9(2) and 9A]

Serial No.	Category of hoteliers	Amount of registration charges/renewal charges
1	2	3
(1) For hotels having upto 10 rooms including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982 (Act 10 of 1982).		Rs. 1,000/-
(2) For hotels having rooms in excess of 10 but upto 50 including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982 (Act 10 of 1982).		Rs. 4,000/-
(3) For hotels having rooms in excess of 50 but upto 100 including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982 (Act 10 of 1982).		Rs. 7,500/-
(4) For hotels having rooms in excess of 100 including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982 (Act 10 of 1982).		Rs. 10,000/-".

#### Statement of Objects and Reasons

The Bill seeks to amend clause (a) of section 2 of the Goa Tax on Luxuries Act, 1988 (Act 17 of 1988) (hereinafter referred to as the "said Act"), so as to include open space utilized for commercial purposes within the ambit of definition of "accommodation provided for commercial purpose" under the said Act, to cover the exhibitions conducted by the non-resident dealers.

The Bill seeks to amend clause (f) of section 2 of the said Act, so as to exclude the entertainment, such as

boat cruise, river cruise, water sports and casinos, from definition of "luxury provided in a hotel" under the said Act, since these are being brought under Goa Entertainment Tax Act, 1964 (Act 2 of 1964).

The Bill seeks to insert new sub-section (7), to section 5 of the said Act so as to empower the Government to reduce any rate of tax or enhance any rate of tax, by notification in the Official Gazette.

The Bill seeks to omit section 5A of the said Act, since the Hon'ble Supreme Court has struck down the provision of levy of luxury tax on stock of luxuries in Writ Petition between Godfrey Phillips India Ltd. and another V. State of U.P. and others, reported in AIR 2005 S.C. 1103, has held that, no State can, by describing an item as a luxury, seek to levy tax on its supply.

The Bill seeks to amend section 5B of the said Act so as to levy tax at the rate of ten percent on the turnover of receipts of the proprietor, for accommodation provided for commercial purposes.

The Bill also seeks to omit certain provisions of the said Act including section 5C of the said Act, as they have become redundant.

The Bill seeks to amend section 9A of the said Act so as to provide that the Registration Certificate granted under the said Act shall be renewed every year in the month of September/October, as tourist season in Goa starts from November every year. This will help the Department to monitor the registration better, and also help the Department to built data base of availability of rooms.

The Bill seeks to amend section 22 of the said Act so as to provide for refund of tax unduly paid.

The Bill seeks to amend Schedule appended to the said Act, so as to provide that where the charge for luxury provided in a hotel is not exceeding Rs. 200/- per day, no tax is payable.

Similarly, the Government proposes to rationalize the rates of tax and do away with the existing system of levy of tax. Hence, where the charge for luxury provided in a hotel is exceeding Rs. 200/- but does not exceed Rs. 1,500/- per day, the rate of tax shall be at 5%; exceeding Rs. 1,500/- and upto Rs. 3,000/-, rate of tax will be at 8% and exceeding Rs. 3000/- the rate of tax will be at 10%. The time share accommodation is proposed to be notionally taxed @ 5% for Rs. 1000/- per day.

The Bill further seeks to amend Schedule II appended to the said Act so as to specify revised rates of fees for registration of hotels based on rooms capacity.

This Bill seeks to achieve the above objects.

### Financial Memorandum

No financial implications are involved in this Bill since no additional expenditure will be incurred on account of the proposed amendment.

### Memorandum Regarding Delegated Legislation

Clause 1 (2) of the Bill empowers the Government to appoint a date for bringing into force the Act, by notification in the Official Gazette.

Clause 3 (iii) of the Bill empowers the Government to reduce or enhance, any rate of tax, by notification in the Official Gazette.

Clause 10 of the Bill empowers the Government to frame rules prescribing the manner in which the Commissioner shall refund the amount of excess tax or tax unduly paid.

These delegations are of normal character.

Assembly Hall,  
Porvorim, Goa.  
19th July, 2006.

PRATAPSINGH RANE  
Chief Minister

T. N. Dhruv Kumar  
Secretary (Legislature)

### Governor's Recommendation under Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, S. C. Jamir, Governor of Goa, hereby recommends to the Legislative Assembly of Goa, the introduction and consideration of the Goa Tax on Luxuries (Amendment) Bill, 2006.

### ANNEXURE

#### Extract of the Goa Tax on Luxuries Act, 1988 (Goa Act 17 of 1988)

2. *Definitions.*— In this Act, unless the context otherwise requires,—

[(a) 'accommodation provided for commercial purpose' means a building or part of a building where accommodation is provided for holding trade fairs, exhibitions, demonstrations, sales promotions, conferences, etc., and includes open space where tents or any enclosure erected for giving on hire space for holding the activities herebefore mentioned].

(aa)] 'appointed day' means the day on which this Act comes into force;

<sup>5</sup>(b) ['business' includes.—

(a) The activity of providing residential accommodation and any other services in connection with, or incidental to or ancillary to such activity of providing residential accommodation by a hotelier for monetary consideration;

(b) The activity of providing, stocking, wending, distributing or supplying of luxuries;

(c) The activity of providing accommodation for commercial purpose, such as, for holding trade fairs, exhibitions, demonstrations, sales promotions, conferences, etc., for monetary consideration];

<sup>4</sup>[(c) "club<sup>1</sup> includes both, an incorporated as well as unincorporated association of persons, by whatever name called];

(cc) 'Commissioner' means the person appointed to be the Commissioner of Luxury Tax under section 3 for the purposes of this Act "[and includes Additional Commissioner of Luxury Tax];

'(d) 'hotel<sup>1</sup> includes a residential accommodation, a lodging house, an inn, a public house or a building or part of building, a club, a boat, vessel or any place where a residential accommodation is provided by way of business];

*Explanation*— A residential accommodation provided under Timeshare Agreement or under Package Deal Agreement or under any such system wherein the facility of availing residential accommodation during a given period in a year is allowed upon a lumpsum payment shall be deemed to be a "hotel" for the purposes of this Act;

(e) 'hotelier' means the owner of the hotel and includes the person who for the time being is in charge of the management of the hotel;

<sup>1</sup>[(ee) 'luxuries' means commodities or services specified in the Schedule, ministering the enjoyment, comfort or pleasure extraordinary to necessities of life];

<sup>4</sup>(f) ['luxury provided in a hotel' means accommodation and other services provided in a hotel, including air conditioning, telephone, television, radio, music, entertainment, extra beds and the like, but does not include the supply of food and drinks],

(g) 'person' includes any company or association or body of individuals whether incorporated or not, and also a Hindu undivided family, a firm, a local authority, a corporation, a State Government and the Central Government;

<sup>4</sup>[(h) 'place of business' includes an office, or any other place which a hotelier or proprietor or stockist uses for the purpose of his business or where he keeps his books of accounts].

(i) 'prescribed' means prescribed by rules made under this Act;

'(ii) 'proprietor' in relation to accommodation provided for commercial purpose includes the person who for the time being is in-charge of the management of the building or part of the building or tent or enclosure, as the case may];

(j) 'receipt' means the amount of monetary consideration received or receivable by a <sup>5</sup>[hotelier or proprietor or stockist, as the case may be] or by his agent for any luxury provided in a hotel <sup>5</sup>[and value of stock of other luxuries provided];

(k) 'registered [hotelier or proprietor or stockist, as the case may be] means a <sup>2</sup>[hotelier or proprietor or stockist, as the case may be] registered under section 9 of this Act;

(l) 'rules' means rules made under this Act;

J[(l) 'Schedule' means the Schedule appended to this Act];

(m) 'State' means the State of Goa;

<sup>1</sup>[(mm) 'stock of luxuries' means the quantity of luxuries being the own stock of the stockist or stock entered in the records or account of the stockist or the quantity of luxuries the stockist receives or procures during any year for stocking, wending or distributing or supplying to a wholesaler, intermediary, retailer, or any person but shall not include any quantity of luxuries held in stock on the day or the date of commencement of the Goa Tax on Luxuries (Amendment) Act, 2001];

<sup>1</sup>[(mmm) 'stockist' means a person who has in his possession or custody or in his control the stock of luxuries procured in any manner, or manufacture made or processed by him in the course of business in the State or produced or caused to be produced by him into the State, either in his own account or of any others, from any place outside the State, for stocking, wending or supplying such luxuries];

<sup>1</sup>[(n) <sup>2</sup>['tax' means the tax levied on luxuries provided in a hotel or for accommodation provided for commercial purpose and on other luxuries provided under this Act, <sup>3</sup>[and includes surcharge if any, leviable];

(o) 'Tribunal' means a Tribunal constituted under section 4;

(p)<sup>2</sup> ['turnover of receipts' means, the aggregate of the amounts of monetary consideration received or receivable by a hotelier or by his agent in respect of luxuries provided in a hotel during a given period and includes the aggregate of amount of monetary consideration received or receivable by the proprietor for accommodation provided for commercial purpose];

[(PP) 'turnover of stocks of luxuries' in relation to stockist in respect of any year means the aggregate of the value of stock of luxuries];

[(PPP) 'value of stock of luxuries' means,—

(i) in respect of stockist being a manufacturer of any of the luxuries, the value of luxuries calculated at the ex-factory price;

(ii) in respect of any other stockist, the value of such luxuries calculated at the price thereto as per the bill, invoice or consignment note or other document of like nature or any person within the State or outside the State from whom such luxuries are received;

**Explanation:**— In respect of any stockist mentioned in sub-clause (i) and (ii), the value of stock of luxuries shall include,—

(a) excise duty, countervailing duty paid or payable on such luxuries by a manufacturer or importer thereof as the case may be; and

(b) transport charges, insurance charges, packing charges, forwarding and handling charges, if any, for carrying such luxuries to any premises, go down, warehouse or any other place of the stockist];

(q) 'year' means,—

(i) the financial year; or

(ii) in relation to any particular registered '[hotelier or stockist, as the case may be] for the purposes of this Act, means the year by reference to which the accounts of the '[hotelier or stockist, as the case may be] are ordinarily maintained in his books of accounts.

## 5. INCIDENCE AND LEVY OF TAX

(1) Subject to the provisions of this Act and the rules made thereunder, there shall be levied a tax on the turnover of receipts of a hotelier.

(2) There shall be levied a tax on the turnover of receipts at the following rates, namely:-

Category of hotels	Rate of Tax
1	2

### (I) Category 'A'

(a) Where the hotel is classified or recognized as three star and 10% of the charge per day of luxury

above by the Directorate of Tourism, Government of India. provided

(b) Where the hotel is located in 'A' grade municipal area or in Coastal Village as defined in the Goa Sales Tax Act, 1964 (Act 4 of 1964), including Time Sharing/Rent Back accommodation, having swimming pool.

c) Where the hotel is classified as 'A' or 'B' grade under the Goa, Daman and Diu Registration of Tourist Trade Act, 1982 (Act No. 10 of 1982), and having swimming pool.

### II) Category 'B'

All other hotels not covered by Category; A above,	3% of the charge per day of the luxury provided.
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**Note:**— Where the luxuries provided in a hotel are under Timeshare Agreement or under Package Deal Agreement or under any such system, other than those covered by Category 'A' above, the rate of tax for the charge of the luxuries provided shall be in accordance with Category 'B' above:

Provided that where the charges are levied otherwise than on daily basis, then the charges for determining the tax liability under this section shall be computed proportionately for a day and based on the total period of occupation of the accommodation for which the charges are made.

(3) Where in addition to the charges for luxury provided in a hotel, service charges are levied and appropriated by the hotelier and not paid to the staff, then such charges shall be deemed to be part of the charges for luxury provided in the hotel.

[(4) Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged at all, nevertheless there shall be levied and collected a tax on such luxury at one-fourth of the rates specified in sub-section (2), as if full charges for such luxury were paid to the hotelier].

(5) The tax shall not be levied and payable in respect of the turnover of receipts for supply of food and drinks, on the sale of which the hotelier is liable to pay sales tax under the Goa Sales Tax Act, 1964 (Act 4 of 1964).

(6) For the purposes of this Act, tax collected separately by the hotelier shall not be considered to be part of the receipt of the turnover of receipts of the hotelier.

## 5A. LEVY OF TAX ON LUXURIES

(1) Subject to the provisions of this Act, there shall be levied and collected a tax on the turnover of stock of luxuries, in respect, of luxuries mentioned in column (2) of the Schedule I, at the rate specified in the corresponding entry in column (3) of the Schedule.

(2) The tax levied under sub-section (1) shall be paid by every registered stockist or a stockist liable to get himself registered under this Act.

(3) Notwithstanding anything contained in sub-section (1), but subject to the production of proof as may be prescribed, no tax shall be leviable on the value of stock of luxuries,—

(i) dispatched to places outside the State;

(ii) on which tax under this Act has been paid or has become payable.

#### 5B. LEVY OF TAX ON ACCOMMODATION PROVIDED FOR COMMERCIAL PURPOSES

Subject to the provisions of this Act there shall be levied and collected a tax at the rate of 12 per cent on the turnover of receipts of the proprietor or rupees two hundred and fifty per day, whichever is higher, for accommodation provided for commercial purposes

#### 5C. LEVY OF SURCHARGE

The tax payable under sub-section (2) of section 5 shall be increased by surcharge calculated at the rate of 10 percent of such tax.

#### 6. LIABILITY OF HOTELIERS OR PROPRIETORS OR STOCKISTS, AS THE CASE MAY BE TO TAX

(1) Subject to the provisions of this Act and rules made thereunder, there shall be paid by every hotelier or proprietor or stockist, as the case may be, who is liable to pay tax under this Act, the tax or taxes leviable in accordance with the provisions of this Act.

(2) If a person other than the owner (including part-owner) is for the time being in charge of the hotel, then such person and the owner (including part-owner) shall jointly and severally be liable to pay the tax.

#### 7. LIABILITY OF FIRMS AS HOTELIERS OR PROPRIETORS OR STOCKISTS, AS THE CASE MAY BE

Where a hotel or business is owned, managed or run by a firm, then the firm and each of the partners of the firm shall be jointly and severally liable for payment of tax:

Provided that where any partner retires from the firm, he shall be liable to pay the tax, penalty or interest payable under this Act, if any, remaining unpaid at the time of his retirement, and any tax due upto the date of his retirement, even if assessment of tax including any penalty (if any) is made at a later date.

#### 8. SPECIAL PROVISION REGARDING LIABILITY IN CERTAIN CASES

(1) Where a hotelier or a proprietor or a stockist, as the case may be liable to pay tax under this Act, dies, then—

(a) if the business carried on by the hotelier or the proprietor or the stockist, as the case may be, is continued after his death by his legal representative or any other person, such legal representative or other person shall be liable to pay the tax including any penalty due from such hotelier or proprietor or stockist, as the case may be, under this Act in the like manner and to the same extent as the deceased hotelier or proprietor or stockist, as the case may be; or

(b) if the business carried on by the hotelier or the proprietor or the stockist, as the case may be, is discontinued, whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, in the like manner and to the same extent as the deceased hotelier or proprietor or stockist, as the case may be, would have been liable to pay if he had not died, the tax (including any penalty) due from such hotelier or proprietor or stockist, as the case may be, under this Act, whether such tax (including any penalty) has been assessed before his death but has remained unpaid or is assessed after his death.

*Explanation.*— For the purpose of this sub-section, the expression legal representative has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

(2) Where a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act is a Hindu undivided family and the joint property is partitioned amongst the various members or group of members, then each member or group of members shall be jointly and severally liable to pay the tax (including any penalty) due from the hotelier or the proprietor or the stockist, as the case may be, under this Act upto the time of partition whether such tax (including any penalty) has been assessed before partition but has remained unpaid or is assessed after partition.

(3) Where a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act is a firm and the firm is dissolved, then every person who was a partner shall be jointly and severally liable to pay to the extent to which he is liable under section 7, the tax (including any penalty) due from the firm under this Act upto the time of dissolution, whether such tax (including any penalty) has been assessed before such dissolution but has remained unpaid or is assessed after dissolution.

(4) Where a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act, transfers or otherwise disposes of his business in whole or in part or effects any change in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person, then the hotelier or the proprietor or the stockist, as the case may be, and the person succeeding shall jointly and severally be liable to pay the tax (including any penalty) due

from the hotelier or the proprietor or the stockist, as the case may be, under this Act upto the time of such transfer, disposal or change, whether such tax (including any penalty) has been assessed before such transfer, disposal or change but has remained unpaid, or is assessed thereafter.

(5) Where a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act,—

(a) is the guardian of a ward on whose behalf the business is carried on by the guardian, or

(b) is a trustee who carries on the business under a trust for a beneficiary, then, if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax (including any penalty) due from the hotelier or the proprietor or the stockist, as the case may be, upto the time of termination of the guardianship or trust, whether such tax (including any penalty) has been assessed before the termination of the guardianship or trust, but has remained unpaid, or is assessed thereafter.

(6) Where a hotelier or a proprietor or a stockist, as the case may be, liable to pay the tax under this Act is succeeded in the business by any person in the manner described in clause (a) of sub-section (1) or in sub-section (4), then such person, unless he already holds a certificate of registration, shall, within 30 days thereof, apply for registration.

## 9. REGISTRATION OF HOTELIERS OR PROPRIETORS OR STOCKISTS, AS THE CASE MAY BE

(1) No hotelier or proprietor or stockist, liable to pay the tax under section 5 or under section 5A or under section 5B or under sub-section (6) of section 8 shall provide accommodation or other luxuries by way of business, unless he possesses a valid certificate of registration as provided by this Act:

Provided that, it shall be lawful for the hotelier or the proprietor or the stockist to provide or continue to provide accommodation or other luxuries by way of business, if he has applied for registration within the time provided under sub-section (2).

(2) Every hotelier or proprietor or stockist required to possess a certificate of registration shall apply in the prescribed form on payment of fees specified in Schedule II appended hereto, to the Commissioner within 30 days from the date on which he becomes liable to pay the tax.

(3) If the Commissioner, after such inquiry as he deems fit, is satisfied that an application for registration is in order, he shall register the applicant and issue to him a certificate of registration in the prescribed form.

(4) The Commissioner may after considering any information furnished or otherwise called for or received

under any provisions of this Act, amend from time to time the certificate of registration.

(5) Where a registered hotelier or proprietor or stockist, as the case may be, discontinues, transfers or otherwise disposes of his activity of providing accommodation by way of business or where he ceases to be liable to pay the tax and he applies in the prescribed form to the Commissioner, then the Commissioner shall, after making such inquiry as may be necessary, cancel the certificate of registration with effect from such date as he may fix in accordance with the rules.

(6) Where the Commissioner is satisfied that any registered hotelier or proprietor or stockist, as the case may be, has discontinued, transferred or otherwise disposed of the activity of providing accommodation by way of business and has failed to apply under sub-section (5) for cancellation of certificate of registration, the Commissioner may, after giving the hotelier or the proprietor or the stockist, as the case may be, a reasonable opportunity of being heard, cancel the certificate of registration with effect from such date as he may fix to be the date from which the said activity has been discontinued, transferred or otherwise disposed of:

Provided that, the cancellation of certificates of registration on an application of the hotelier or the proprietor or the stockist, as the case may be, or otherwise shall not effect the liability of the hotelier or the proprietor or the stockist, as the case may be to pay the tax (including any penalty) due for any period upto the date of cancellation whether such tax (including any penalty), is assessed before or after the date of cancellation.

## 9A. RENEWAL OF REGISTRATION CERTIFICATE

Every hotelier or proprietor or stockist liable for registration under this Act, shall have to get his registration certificate renewed every year on payment of charges specified in Schedule II appended hereto.

## 10. NON-TRANSFERABILITY OF REGISTRATION CERTIFICATE

Save as otherwise provided in section 12, a certificate of registration shall be personal to the hotelier or the proprietor or the stockist, as the case may be, to whom it is granted and shall not be transferable.

## 11. INFORMATION TO BE FURNISHED REGARDING CHANGES IN BUSINESS, ETC.

(1) If a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act,—

(a) sells or otherwise disposes of his business or any part thereof, or effects or makes any other change to his knowledge in the ownership of the business; or

(b) discontinues his business, or changes the place thereof or opens a new place of business; or

(c) changes the name or nature of his business; or

(d) enters into a partnership or other association in regard to his business, he shall within the prescribed time, inform the prescribed authority accordingly.

(2) Where any such hotelier or proprietor or stockist, as the case may be, dies, his executor, administrator or other legal representative or where any such hotelier or proprietor or stockist, as the case may be, is a firm and there is a change in the constitution of the firm or the firm is dissolved, every person who was a partner thereof, shall, in like manner, inform the said authority of such death, change in the constitution or, as the case may be, dissolution.

## 12. CERTIFICATE OF REGISTRATION TO CONTINUE IN CERTAIN CIRCUMSTANCES

Where a registered hotelier or a proprietor or a stockist, as the case may be;—

(a) effects change in the name of his business; or

(b) is a firm, and there is a change in the constitution of the firm without dissolution thereof; or

(c) is a trustee of a trust, and there is change in the trustees thereof; or

(d) is a guardian of a ward, and there is change in the guardian, then merely by reason of any of the circumstances aforesaid, it shall not be necessary for the hotelier or the proprietor or the stockist, as the case may be, or the firm with the changed constitution, or the new trustees, or new guardian, to apply for a fresh certificate of registration and on information being furnished in the manner required by section 11 the certificate of registration shall be amended.

## 13. PAYMENT OF TAX AND RETURNS

(1) Tax payable under this Act shall be paid in the manner hereinafter provided and at such intervals as may be prescribed.

(2) Such hoteliers or proprietors or stockists, as the case may be, as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered hotelier or proprietor or stockist, as the case may be, shall furnish returns of the total turnover of the period to which such returns relate, in such manner, by such date and to such authority as may be prescribed.

(3) Before any registered hotelier or proprietor or stockist, as the case may be, furnishes the returns

required by sub-section (2), he shall pay into a Government Treasury or the State Bank of India or in such other manner as may be prescribed the full amount of tax due from him under this Act according to such returns, and shall furnish along with the returns a receipt from such Treasury or Bank showing the payment of such amount.

(4) If any hotelier or proprietor or stockist, as the case may be, having furnished returns under sub-section (2), discovers any omission or incorrect statement, he may furnish a revised return before the expiry of three months next following the last date prescribed for furnishing the original return and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing the payment in the manner provided in sub-section (3) of the extra amount:

Provided that no such revised return shall be considered as such and it shall not be taken into consideration, if the assessing authority is satisfied that the return originally furnished was with the intention to delay the payment of tax due in time, or with intent to defraud the State Government of its revenue.

(4A) Any tax assessed or any other amount due under this Act from a hotelier or a proprietor or a stockist, as the case may be, or any other person may, without prejudice to any other mode of collection, be recovered. -

(a) as if it were an arrears of land revenue; or

(b) by attachment and sale or by sale without attachment of any property of such hotelier or proprietor or stockist, as the case may be, or any other person by the Officer appointed under sub-section (2) of section 3, in accordance with such rules as may be prescribed.

(5) With a view to encourage prompt payment of tax the State Government may prescribe rates of remissions or rebate in respect thereof in accordance with such principles as may be prescribed.

(6) (a) The hotelier or the proprietor or the stockist, as the case may be, shall pay the amount of tax assessed or reassessed for any period under section 14 or section 16 of this Act less any sum already paid by him in respect of such period; and

(b) The amount of penalty, if any, levied under this Act shall be paid by the hotelier or the proprietor or the stockist, as the case may be, or by the person liable therefore into the appropriate Government Treasury by such date as may be specified in a notice or order issued under this Act being a date not earlier than sixty days from the date of service of notice or order:

Provided further that, the Commissioner or any person appointed to assist him under sub-section (2)

of section 3, may, in respect of any particular hotelier or proprietor or stockist, as the case may be or person, and for reasons to be recorded in writing and on payment of interest at such rate as may be specified in the order, extend the date of such payment or allow him to pay tax due or penalty or interest levied, if any, by installments.

(7) (a) When a hotelier or a proprietor or a stockist, as the case may be, is in default in making payment of the tax assessed or re-assessed or of penalty imposed or interest levied, there shall be paid by such [hotelier or proprietor or stockist, as the case may be], for the period commencing from the date of expiry of the date specified in the notice for payment and ending on the date of payment of the amount, simple interest at the rate of 24% per annum of the amount not so paid].

(b) '[Notwithstanding anything contained in clause (a), the Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period by any person or class of persons].

(c) 3[Any amount of tax or penalty or interest which remains unpaid after the date prescribed for payment or the date specified in the notice for payment, or in the order of imposition of penalty, or after the extended date of payment and any installments not duly paid, shall be recoverable as arrears of land revenue].

(8) The State Government may, by general or special order published in the Official Gazette, authorize any Officer not below the rank of a Luxury Tax Officer, to exercise, for the purpose of effecting recovery of the amount of tax or penalty due from any ^ hotelier, proprietor or stockist, as the case may be or person under this Act the powers of a Collector under the Goa, Daman and Diu Land Revenue Code, 1968 (Act 9 of 1969) to recover the dues as arrears of land revenue.

#### 14. ASSESSMENT OF TAX

(1) The amount of tax due from a hotelier or a proprietor or a stockist, as the case may be liable to pay tax shall be assessed separately for each year during which he is so liable:

Provided that, the Commissioner may, subject to such conditions as may be prescribed, assess the tax due from any hotelier or proprietor or stockist, as the case may be during a part of a year.

(2) If the Commissioner is satisfied that the returns furnished by a registered hotelier or a proprietor or a stockist, as the case may be in respect of any period are correct and complete, he shall assess the amount of tax due from the hotelier or the proprietor or the stockist, as the case may be on the basis of such returns.

(3) If the Commissioner is not satisfied that the returns furnished by a registered hotelier or a proprietor or a stockist, as the case may be in respect of any period are correct and complete, and he thinks it necessary to require the presence of the hotelier or the proprietor or the stockist, as the case may be or the production of further evidence, he shall serve on such hotelier or proprietor or stockist, as the case may be a notice requiring him on a date and at a place specified thereon, either to attend and produce or cause to be produced all evidence on which such hotelier or proprietor or stockist, as the case may be relies in support of his returns, or to produce such evidence as is specified in the notice. On the date specified in the notice, or as soon as may be thereafter, the Commissioner shall, after considering all the evidence which may be produced, assess the amount of tax due from the hotelier or the proprietor or the stockist, as the case may be.

(4) If a registered hotelier or a proprietor or a stockist, as the case may be, fails to comply with the terms of any notice issued under sub-section (3), the Commissioner shall assess to the best of his judgement, the amount of tax due from him.

(5) Where all the returns are filed by a registered hotelier or a proprietor or a stockist, as the case may be for any year ending on or after the appointed day by the prescribed dates, on or before the date prescribed for filing the last return of that year, no order of assessment under sub-section (3) or sub-section (4) in respect of that year shall be made after the expiry of four years from the end of the said year, and if for any reason such order is not made within the period aforesaid, then returns so filed shall be deemed to have been accepted correct and complete for assessing the tax due from such hotelier or proprietor or stockist, as the case may be.

*Explanation.*— In the case of returns filed by a registered hotelier or a proprietor or a stockist, as the case may be referred to in sub-clause (ii) of clause (q) of section 2, the period of four years shall be computed from the end of the financial year in which the year, by reference to which the accounts of that hotelier or proprietor or stockist, as the case may be are maintained in his books, ends:

Provided that, where such assessment is made in consequence of or to give effect to any order of an appellate or revisional authority or of a Court, the period of four years or six years, as the case may be, shall be reckoned from the date of such order.

(6) If a registered hotelier or a proprietor or a stockist, as the case may be does not furnish return in respect of any period by the prescribed date, the Commissioner shall, at any time within four years from the end of the year in which such period occurs, after giving the hotelier or the proprietor or the stockist, as the case may be a reasonable opportunity of being heard, proceed

to assess, to the best of his judgement, the amount of tax (if any) due from him.

(7) If the Commissioner has reason to believe, that a hotelier or a proprietor or a stockist, as the case may be is liable to pay tax in respect of any period, but has failed to apply for registration or failed to apply for registration within time as required by section 9, the Commissioner shall, at any time, within six years from the end of the year in which such period occurs, after giving the hotelier or the proprietor or the stockist, as the case may be, a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of tax (if any) due from the hotelier or the proprietor or the stockist, as the case may be in respect of that period, and any period or periods subsequent thereto.

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the Commissioner is not satisfied about the correctness or completeness of the accounts of a hotelier or a proprietor or a stockist, as the case may be, or where no method of accounting has been regularly employed by a hotelier or a proprietor or a stockist, as the case may be the Commissioner may, after giving the hotelier or the proprietor or the stockist, as the case may be, a reasonable opportunity of being heard, assess to the best of his judgement, the amount of tax (if any) due from him.

(9) Any assessment made under this section shall be without prejudice to any penalty, or prosecution for an offence, under this Act.

#### 15. APPLICABILITY OF PROVISIONS OF THIS ACT TO THE PERSON LIABLE TO PAY TAX UNDER SECTION 8

Where in respect of any tax (including any penalty and interest) due from the hotelier or the proprietor or the stockist, as the case may be, under this Act, any other person is liable for payment thereof under section 8, then such other person shall be deemed to be a hotelier or a proprietor or a stockist, as the case may be, for the purpose of this Act, and all the relevant provisions of this Act shall in respect of such liability apply to such person also, as if he were the hotelier or the proprietor or the stockist, as the case may be.

#### 16. RE-ASSESSMENT OF TURNOVER ESCAPING ASSESSMENT, UNDER ASSESSED, ETC.

(1) If a hotelier or a proprietor or a stockist, as the case may be, has been assessed under section 14 for any year or part thereof and where for any reason the whole or any part of the turnover of receipts in respect of that year or part thereof has escaped assessment, or has been under-assessed or assessed at a lower rate, or any deduction has been wrongly made, then the Commissioner may, at any time within five years of the end of that year, after giving the hotelier or the proprietor or the stockist, as the case may be, a reasonable

opportunity of being heard, proceed to assess or re-assess, to the best of his judgement, the amount of tax due from such hotelier or proprietor or stockist, as the case may be:

Provided that, the amount of tax shall be assessed at the rates at which it would have been assessed had there been no under-assessment or escapements;

Provided further that, where in respect of such turnover of receipts an order has already been passed in appeal or revision under this Act, the Commissioner shall make a report to the appropriate appellate or revising authority under this Act, which shall thereupon after giving the hotelier or the proprietor or the stockist, as the case may be, concerned a reasonable opportunity of being heard, pass such order as it deems fit.

(2) Nothing in sub-section (1) shall apply to any proceeding (including any notice issued) under section 33 or section 36.

(3) Nothing in section 33 and 36 shall affect any proceeding under this section.

#### 17. IMPOSITION OF PENALTY

(1) If, while assessing or re-assessing the amount of tax due from a hotelier or a proprietor or a stockist, as the case may be, under any provisions of this Act or while passing any order in any appeal, revision or rectification proceedings, it appears to the Commissioner that such hotelier or proprietor or stockist, as the case may be, has—

(a) failed to apply for registration as required by section 9 or has carried on business, without being registered, in contravention of section 9; or

(b) failed, without reasonable cause, to comply with any notice in respect of the proceedings under sections 14, 16, or 27 or 33; or

(c) failed to disclose any transaction of receipt or has failed to furnish return by the prescribed date or has failed to show in the return the appropriate liability to pay tax or has failed to disclose fully and truly all material facts necessary for the proper and correct quantification of the tax liability, then the Commissioner may after giving the hotelier or the proprietor or the stockist, as the case may be, an opportunity of being heard, by order in writing impose upon the hotelier or the proprietor or the stockist, as the case may be, by way of penalty, in addition to any tax assessed or re-assessed or found due in the appeal or revision or rectification proceedings, as the case may be, a sum not exceeding one-and-a-half times the amount of tax so assessed or re-assessed or found due in the appeal or revision or rectification proceedings.

**18. IMPOSITION OF PENALTY FOR CONTRAVENTING CERTAIN PROVISIONS**

(1) If any person—

(a) (i) not being a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act collects any sum by way of tax; or

(ii) being a registered <sup>1</sup> hotelier or a proprietor or a stockist, as the case may be, collects any amount by way of tax in excess of the tax payable by him; or

(iii) otherwise collects tax in contravention of the provisions of section 24; or

(b) being a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act, or being a <sup>1</sup> hotelier or a proprietor or a stockist, as the case may be, who was required so to do by the Commissioner by a notice, served on him, fails in contravention of sub-section (1) of section 26 to keep a true account of his turnover of receipts or fails when directed so to do under that section to keep any account or record in accordance with direction, he shall be liable to pay, in addition to any tax for which he may be liable, a penalty of an amount as follows:—

(i) Where there has been contravention referred to in sub-clauses (i) and (ii) of clause (a), a penalty of an amount not exceeding two thousand rupees or double the sum collected by way of tax, whichever is less.

(ii) Where there has been a contravention referred to in sub-clause (ii) of clause (a) or in clause (b), a penalty of an amount not exceeding two thousand rupees and in addition, any sum collected by the person by way of tax in contravention of section 24 shall be forfeited to the State Government].

(2) If the Commissioner, in the course of any proceeding under this Act or otherwise, has reason to believe that any person has become liable to a penalty or forfeiture or both penalty and forfeiture of any sum under sub-section (1), he shall serve on such person a notice in the prescribed manner requiring him on a date and at a place specified in the notice to attend and show cause why a penalty or forfeiture or both penalty and forfeiture of any sum as provided in sub-section (1) should not be imposed on him.

(3) The Commissioner shall thereupon hold an inquiry and shall make such order as he thinks fit.

(4) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(5) When any order of forfeiture is made, the Commissioner shall publish or cause to be published a notice thereof for the information of the persons concerned giving such details and in such manner as may be prescribed.

**19. ROUNDING OF TAX, ETC.**

The amount of tax, penalty, interest, composition money, fine or any other sum payable under the provisions of this Act, shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee, and if such part is less than fifty paise, it shall be ignored:

Provided that, nothing in this section shall apply for the purpose of collection by the hotelier or the proprietor or the stockist, as the case may be, of any amount by way of tax under this Act.

**20. CHARGE ON THE PROPERTY OF DEFALTER AND LEVY OF INTEREST FOR DELAYED PAYMENT OF TAX**

(1) If a hotelier or a proprietor or a stockist, as the case may be, or person does not pay the tax within the time he is required by or under the provisions of this Act and the rules made thereunder to pay it, then,—

(i) the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay the tax under this Act; and

(ii) the hotelier or the proprietor or the stockist, as the case may be, or the person shall be liable to pay by way of simple interest, in addition to the amount of such tax, a sum equal to,—

(a) one and half percent of the amount of such tax for each month, for the first three months after the last date by which he should have paid such tax;

(b) two percent of such amount for each month subsequent to the first three months as aforesaid.

*Explanation.*— For the purpose of clause (ii) above, the interest payable for a part of the month shall be worked out proportionately.

(2) If any tax, other than the tax on which interest is leviable under sub-section (1), has remained unpaid on the date prescribed for filing the last return in respect of any period of assessment, then the hotelier or the proprietor or the stockist, as the case may be, or the person shall be liable to pay by way of simple interest, a sum equal to two percent on such tax for each month or part thereof on the expiry of 30 days from the date immediately following the date on which the period for

which the hotelier or the proprietor or the stockist, as the case may be, or person has been assessed expires, till the date of order of assessment and where any payment of such unpaid tax, whether in full or in part, is made on or before the date of order of assessment, the amount of such interest shall be calculated by taking into consideration the amount and the date of such payment. If, as a result of any order passed under this Act, the amount of tax which had so remained unpaid is enhanced or reduced, as the case may be, the interest shall be enhanced or reduced, accordingly.

(3) Notwithstanding anything contained in sub-section (1), the Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period by any hotelier or proprietor or stockist, as the case may be, person or class of persons.

#### (20A). SPECIAL MODE OF RECOVERY

(1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time, or from time to time, by notice in writing, a copy of which shall be forwarded to the hotelier or the proprietor or the stockist, as the case may be, at his last address known to the Commissioner, require,-

(a) any person from whom any amount of money is due or may become due to a hotelier or a proprietor or a stockist, as the case may be, who has failed to pay the amount of tax due or penalty imposed under this Act, or

(b) any person who holds or may subsequently hold money for or on account of such hotelier or a proprietor or stockist, as the case may be, to pay to the Commissioner, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (but not before the money becomes due or is held as aforesaid), so much of the money as is sufficient to pay the amount due by the hotelier or the proprietor or the stockist, as the case may be, in respect of the arrears of tax and penalty, or both, or the whole of the money when it is equal to or less than that amount.

*Explanation.*— For the purpose of this section, the amount of money due to a hotelier or a proprietor or a stockist, as the case may be, from, or money held for or on account of a hotelier or a proprietor or a stockist, as the case may be, by any person, shall be calculated after deducting therefrom such claims, if any, lawfully subsisting as may have fallen due for payment by such hotelier or proprietor or stockist, as the case may be, to such person.

(2) The Commissioner may at any time, amend or revoke any such notice, or extend the time for making any payment in pursuance of such notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the hotelier or the proprietor or the stockist, as the case may be, and the receipt of the Commissioner shall constitute a good and sufficient discharge of the liability of such person, to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the hotelier or the proprietor or the stockist, as the case may be, after receipt of the notice referred to in this section shall be personally liable to the Commissioner to the extent of the liability discharged, or to the extent of the liability of the hotelier or the proprietor or the stockist, as the case may be, for tax and penalty, whichever is less.

(5) Where a person to whom a notice under this section is sent objects to it, by a statement in writing that the sum demanded or any part thereof is not due or payable to the hotelier or the proprietor or the stockist, as the case may be, or that the amount held for or on account of the hotelier or the proprietor or the stockist, as the case may be, is under genuine dispute, the Commissioner shall hold an inquiry and after giving a reasonable opportunity of being heard to such person and the hotelier or the proprietor or of the stockist, as the case may be, shall make such order as he thinks fit.

(6) Any amount of money which a person is required to pay to the Commissioner or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable an arrear of land revenue.

#### 21. EXEMPTION

(1) Subject to such conditions as it may impose, the State Government may, if it deems necessary so to do in the public interest, by notification in the Official Gazette, exempt any specified class of luxuries provided in a hotel from payment of the whole or any part of tax payable under the provisions of this Act and such exemption shall take effect from the date of the publication of the notification in the Official Gazette or sue other date as may be mentioned therein.

(2) Where a hotelier or a proprietor or a stockist, as the case may be, or a person has availed of such exemption and any of the conditions subject to which such exemption was granted are no complied with, for any reason whatsoever, then such hotelier or proprietor or stockist, as the case may be, or person shall be liable to pay luxury tax on the luxury provided in a hotel, in accordance with the other provisions of this Act.

(3) If the Commissioner has reason to believe that any person is liable to pay tax under sub-section (2), the Commissioner shall, after giving him a reasonable opportunity of being heard, assess the amount of tax so due.

## 22. REFUND

(1) The Commissioner shall refund to a person the amount of tax and penalty (if any) paid by such person in excess of the amount due from him. The refund may be either by cash payment or, at the option of the person, by deduction of such excess from the amount of tax and penalty due in respect of any other period:

Provided that, the Commissioner shall first apply such excess towards the recovery of any amount due in respect of which a notice under sub-section (6) of section 13 has been issued, and shall then refund the balance (if any).

(2) Where any refund is due to any hotelier or proprietor or stockist, as the case may be, according to the return furnished by him for any period, such refund may provisionally be adjusted by him against the tax due and payable as per the returns furnished under section 13 for any period:

Provided that, the amount of tax or penalty or interest or all of them due from, and payable by, the hotelier or the proprietor or the stockist, as the case may be, on the date of such adjustment shall first be deducted from such refund before making adjustment.

## 24. PROHIBITION AGAINST COLLECTION OF TAX IN CERTAIN MATTERS

(1) No person shall collect any sum by way of tax in respect of his business to the extent that he is not liable to pay it under this Act.

(2) No person, who is not a registered hotelier or a proprietor or a stockist, as the case may be, and liable to pay tax in respect of luxury provided in any hotel, shall collect any sum by way of tax from any other person and no registered hotelier or proprietor or stockist, as the case may be, shall collect any amount by way of tax in excess of the amount of tax payable by him under the provision of this Act:

Provided that, this sub-section shall not apply where a person is required to collect such amount of the tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force.

## 25. BILL OR CASH MEMORANDUM TO BE ISSUED TO CUSTOMER

A registered hotelier or a proprietor or a stockist, as the case may be, shall issue to the customer or customers a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent and showing therein such other particulars as may be prescribed. He shall keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated, and preserve it until the assessment for the relevant period is duly completed in accordance with the

provisions of section 14 of the Act and for a further period of five years thereafter.

## 26. ACCOUNTS

(1) Every hotelier or proprietor or stockist, as the case may be, liable to pay tax under this Act, and every hotelier or proprietor or stockist, as the case may be, who is required so to do by the Commissioner by notice served on him in the prescribed manner, shall keep a true account of the luxury provided by him in the hotel.

(2) If the Commissioner considers that the accounts kept are not sufficiently clear or intelligible to enable him to determine whether or not a hotelier or a proprietor or a stockist, as the case may be, is liable to tax during any period, or are so kept as not to enable a proper scrutiny of the returns or the statement furnished, the Commissioner may require such hotelier proprietor or stockist, as the case may be, by notice in writing to keep such accounts in such form or manner as in his opinion is necessary for the purpose of proper assessment and as he may, subject to anything that may be prescribed in that behalf, in writing direct.

(3) The Commissioner may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any hotelier or proprietor or stockist, as the case may be, or by notification in the Official Gazette, direct any class of hoteliers or proprietors or stockists, as the case may be, to maintain accounts and records showing such particulars regarding their business in such form, and in such manner, as may be specified by him.

(4) Every registered hotelier or proprietor or stockist, as the case may be, shall ordinarily keep all his accounts, registers and documents relating to his business at the place or places of business specified in his certificate of registration or, with the previous approval of the Commissioner at such other place as may be approved by the Commissioner.

## 27. PRODUCTION AND INSPECTION OF ACCOUNTS AND DOCUMENTS AND SEARCH OF PREMISES

(1) The Commissioner may, subject to such conditions as may be prescribed, require any hotelier or proprietor or stockist, as the case may be, to produce before him any accounts or documents, or to furnish any information, relating to his business, or any other information as may be necessary for the purpose of this Act.

(2) All accounts, registers and documents relating to the business of any hotelier or proprietor or stockist, as the case may be, and cash kept in any place of business of any hotelier or proprietor or stockist, as the case may be, shall at all reasonable time be open to inspection by the Commissioner and the Commissioner or any person authorized by him may take or cause to be taken such copies or extracts of the said accounts, registers or documents and such inventory of cash found as appear to him necessary for the purpose of this Act.

(3) If the Commissioner has reason to believe that any hotelier or proprietor or stockist, as the case may be, has evaded or is attempting to evade the payment of any tax due from him, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the hotelier or the proprietor or the stockist, as the case may be, as may be necessary, and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceeding under this Act or for a prosecution.

(4) For the purpose of sub-section (2) or sub-section (3), the Commissioner may enter and search any place of business of any hotelier or proprietor or stockist, as the case may be, or any other place where the Commissioner has reasons to believe that the hotelier or the proprietor or the stockist, as the case may be keeps or is for the time being keeping any accounts, registers or documents of his business.

(5) Where a person to whom a notice under this section is sent objects to it, by a statement in writing that the

## 28. HOTELIER OR PROPRIETOR OR STOCKIST, AS THE CASE MAY BE TO DECLARE THE NAME OF OWNER OF BUSINESS

Every hotelier or proprietor or stockist, as the case may be, who is liable to pay tax, and who is a Hindu undivided family, or an association or club or society or firm or company, or corporation who carries on business as the guardian or trustees or otherwise on behalf of another person, shall within the period prescribed send to the authority prescribed, a declaration in the manner prescribed stating the name of the person or persons who is the owner or who are the owners of the hotel. Such declaration may be revised from time to time.

## 29. POWER TO COLLECT STATISTICS

(1) If the State Government considers that for the purposes of the better administration of this Act, it is necessary so to do, it may, by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with by or under this Act.

(2) Upon such direction being made, the State Government or any person or persons authorized by it in this behalf may, by notification in the Official Gazette, and by notice in any newspaper or in such other manner as in its or his opinion is best calculated to bring the notice to the attention of the hotelier or the proprietor or the stockist, as the case may be, call upon all hoteliers or proprietors or stockists, as the case may be, or any class of hoteliers or proprietors or stockists, as the case may be, to furnish such information or returns as may be stated therein relating to any matter in respect of which statistics are to be collected. The form in which, the persons to whom or, the authorities to which such information or returns should be furnished, the

particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed.

## 30. DETERMINATION OF CERTAIN DISPUTED QUESTION

If any question arises, otherwise than in proceeding before a Court, or before the Commissioner has commenced assessment or reassessment of a hotelier or a proprietor or a stockist, as the case may be, under section 14 or section 16, about the interpretation or the scope of any provisions of this Act, the Commissioner shall make an order determining such question.

*Explanation.*— For the purpose of this sub-section, the Commissioner shall be deemed to have commenced assessment or reassessment of a hotelier or a proprietor or a stockist, as the case may be, when the hotelier or the proprietor or the stockist, as the case may be, is served with a notice under section 14 or section 16, as the case may be.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under this Act, as respects the period prior to the determination.

(3) If any such question arises from any order already passed; under this Act, no such question shall be entertained for determination under this section, but such question may be raised in appeal against or by way of revision of such order.

## 31. POWERS OF COMMISSIONER

(1) In discharging his functions by or unto this Act, the Commissioner shall have all the powers of a Civil Court for the purpose of—

(a) proof of facts by affidavit;

(b) summoning and enforcing the attendance of any person, and examining him on oath or affirmation;

(c) compelling the production of documents; and

(d) issuing commissions for the examination of witnesses.

(2) In the case of any affidavit to be made for the purpose of this Act, any Officer appointed by the Commissioner may administer the oath to the deponent.

(3) Without prejudice to the provisions of any other law for the time being in force, where a person, to whom a summon is issued by the Commissioner either to attend to give evidence or produce books of accounts, registers or other documents at a certain place and time, intentionally omits to attend or produce the documents at the place and time, the Commissioner may impose on him such fine not exceeding five hundred rupees

as he thinks fit; and the fine so levied may be recovered in the manner provided in this Act for recovery of arrears of tax:

Provided that, before imposing any such fine, the person concerned shall be given a reasonable opportunity of being heard.

(4) If any documents are produced by a person on whom a summon was issued by the Commissioner, and the Commissioner has reason to believe that any hotelier or proprietor or stockist, as the case may be, has evaded or is attempting to evade the payment of any tax due from him and the documents produced are necessary for establishing the case against such hotelier or proprietor or stockist, as the case may be, the Commissioner may, for reasons to be recorded in writing, impound the documents and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with the proceedings under this Act, or for an prosecution.

### 33. APPEAL, REVISION AND REVIEW

(1) Any hotelier or proprietor or stockist, as the case may be, may in the prescribed manner appeal to the authority as may be prescribed, against any assessment or reassessment within sixty days from the date of communication of the order appealed against:

Provided firstly that, the said authority may entertain the appeal after expiry of the said period of sixty days, if he is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time:

Provided secondly that, no appeal shall be entertained by the said authority unless he is satisfied that such amount of the tax as the applicant may admit to be due from him has been paid.

(2) Subject to such rules of procedure as may be prescribed, the appellate authority, in disposing of any appeal under sub-section (1), may—

(a) confirm, reduce, enhance or annul the assessment; or

(b) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed; or

(c) pass such other orders as it may think fit.

(3) (a) In the case of an order passed in appeal by the appellate authority under sub-section (2), a second appeal shall lie to the Tribunal within sixty days of the date of passing of the order.

(b) The Tribunal may admit the second appeal referred to after the period of sixty days referred to in clause (a), if it is satisfied that the appellant had sufficient cause for not preferring the appeal in that period.

(4) No appeal under sub-section (3) or sub-section (9) shall be entertained by the Tribunal, and no revision application under sub-section (6) shall be entertained by the Commissioner, unless such appeal or revision application, as the case may be, is accompanied by satisfactory proof of the payment of tax or 'penalty or both that may be due:

Provided that, the Tribunal or the Commissioner, as the case may be, if it or he thinks fit, for reasons to be recorded in writing, entertain any appeal or revision against any such order without making the payment as aforesaid, if the appellant or, as the case may be, the applicant furnishes suet security for such amount as it or he may direct.

(5) In disposing of an appeal, the Tribunal shall have the same powers as that of the appellate authority under sub-section (2).

(6) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner upon application or of his own motion may revise any assessment made or order passed under this Act or the rules made thereunder by a person appointed under section 3 to assist him:

Provided that, before rejecting any application for the revision of any such order, the Commissioner shall consider it and shall record reasons for such rejection:

Provided further that, no application for revision shall lie to the Commissioner in respect of any assessment if an appeal lies under sub-section (1) to the prescribed authority in respect of such assessment.

(7) The hotelier or the proprietor or the stockist, as the case may be, may, at his option file a second appeal under sub-section (3), or make an application for revision to the Commissioner under sub-section (6), and where the hotelier or the proprietor or the stockist, as the case may be, has exercise such option, he shall be precluded from filing an application for revision under sub-section (6), or, as the case may be, from filing a second appeal under sub-section (3).

(8) In dispensing of the revision, the Commissioner shall have the same powers as those of the appellate authority under sub-section (2).

(9) Where an order is passed by the Commissioner of his own motion under sub-section (6), an appeal shall lie to the Tribunal from that order within sixty days and an appeal filed after that period may be admitted if the Tribunal is satisfied that the appellant had sufficient cause for not filing the appeal within that period.

(10) Subject to such rules as may be prescribed, any assessment made or order passed under this Act, or rules made thereunder by any person appointed under section 3 or by the Tribunal constituted under section 4 may be reviewed by the person or the Tribunal passing it,

as the case may be, upon an application or of his or its own motion, as the case may be.

(11) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given reasonable opportunity of being heard.

*Explanation.*— In this section 'assessment' includes imposition of penalty.

#### 34. NON-APPEALABLE ORDERS

No appeal shall lie against,—

(i) a notice issued under this Act calling upon a hotelier or a proprietor or a stockist, as the case may be, for assessment or asking a hotelier or a proprietor or a stockist, as the case may be, to show cause as to why he should not be prosecuted for an offence under this Act or notices issued under any of the provisions of section 20 of this Act, or

(ii) an order pertaining to the seizure or retention of accounts books, registers and other documents; or

(iii) an order sanctioning a prosecution under this Act; or

(iv) an order transferring any proceeding under section 42.

#### 42. POWER TO TRANSFER PROCEEDINGS

The Commissioner may, after giving the parties a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, by order if writing transfer any proceeding or class of proceedings under any provision of this Act, from himself to any other officer and he may likewise transfer any such proceedings (including a proceeding pending with any officer or already transferred under this section) from any officer to any other officer or to himself:

Provided that, nothing in this section shall be deemed to require any such opportunity to be given where the transfer is from any officer to any other officer and the offices of both officers are situated in the same city, locality or place.

*Explanation.*— In this section, the word proceedings in relation to any hotelier or proprietor or stockist, as the case may be whose name is specified in any order issued thereunder, means) proceedings under this Act in respect of any year which may pending on the date of such order or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any year in relation to such hotelier or proprietor or stockist, as the case may be.

45. *Power to make Rules.*— (1) The State Government may make rules for carrying out its purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

(i) subordination of officers and persons appointed under section 3 amongst themselves;

(ii) the periods within which, the manner in which and authority to which application for registration shall be made under section 9;

(iii) the procedure for, and other matters incidental to the registration of hotelier or proprietor or stockist, as the case may be, and the granting of certificates of registration, and the form of such certificates under section 9 and the manner in which application for cancellation of registration shall be made, and the date from which cancellation of registration shall take effect;

(iv) the authority to which, and the time within which, information shall be furnished under section 11;

(v) the period for which and the dates by which and the authority to which, the returns shall be furnished under section 13 and the terms and conditions for purposes of sub-section (1) of section 14;

(vi) the intervals at which, and the manner in which, the tax shall be paid under section 13;

(vii) procedure to be followed for assessment under section 14;

(viii) the manner in which a notice under sub-section (2) of section 18 may be served, and the details to be mentioned in the notice published under sub-section (5) of section 18;

(ix) the other particulars under section 25;

(x) the accounts and forms thereof required by the Commissioner to be kept under section 26 and the conditions or restrictions subject to which the accounts and records shall be maintained under section 26.

(xi) the conditions subject to which the production of accounts or documents or the furnishing of information may be required under section 27;

(xii) the period within which, the authority to which and the manner in which a declaration shall be sent under section 28;

(xiii) the form in which, the authority to which and the intervals in which information or returns shall be furnished under section 29 and the particulars to be specified in such information and returns;

(xiv) the procedure for, and the other matters (including fees) incidental to, appeals and revision under section 33;

(xv) the forms of authorization, for the purposes of clauses (a), (b) and (c) of section 43;

(xvi) the manner in which, and the time within which the applications shall be made, information furnished and notices served, under this Act;

(xvii) the fees payable (in Court - fee stamps) in respect of an application—

(a) for a certified copy of an order of assessment, or of any order passed or document produced or filed in any proceedings, under this Act;

(b) for determination of any question under section 30.

(xviii) the fees payable (in cash) for making and supplying a duplicate or certified copy of any order or document under this Act or the rules made thereunder, the extra fees payable if the copy is required urgently and the deposit to be made to cover the cost of such fees;

(xix) any other matter which is required to be or may be prescribed.

#### 1 SCHEDULE - I

[See section 5A and 2(ee)]

Sr. No.	Description of luxuries	Rate of Tax
(1)	(2)	(3)
(1)	Chewing tobacco including gutka	25%

(2) Tobacco products excluding those covered under (1) above but other than biddies and snuff 5%

#### SCHEDULE — II

[See section 9(2) and 9A]

Category of hoteliers	Amount of registration charges/renewal charges
(1)	(2)
(1) For hotels having upto 4 rooms including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982.	Rs. 200/-
(2) For hotels having rooms in excess of 4 but below 60 including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982.	Rs. 200/- plus Rs. 10/- per room
(3) For hotels having 60 rooms and above including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982.	Rs. 800/- plus Rs. 20/- per room
Stockist and others	Rs. 1000/-
Stockists and others liable under the Act.	